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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,863	09/10/2003	Lee E. Cannon	0112300-1659	5044
29159	7590	04/20/2005	EXAMINER	
BELL, BOYD & LLOYD LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			NGUYEN, KIM T	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/659,863	Applicant(s) CANNON, LEE E.	
	Examiner Kim Nguyen	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,8-20 and 23-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,8-20 and 23-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/7/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner acknowledges receipt of the amendment on 1/18/05.

According to the amendment, claims 6-7 and 21-22 have been canceled, claims 45-47 have been added, and claims 1-5, 8-20 and 23-47 are pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 8-20 and 23-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kadlic et al (US. Patent No. 6,358,144).

a. As per claim 1, Kadlic discloses a method operating a poker game. The method comprises receiving an initial wager (col. 5, lines 62-63); dealing a hand from a deck of cards including fifty-two standard cards, a positive impact card and a negative impact card (col. 6, lines 66-67; col. 7, lines 1-7; col. 9, lines 56-58; and col. 16, lines 22-27); evaluating the hand and providing award, wherein the negative impact card cannot be a part of the winning combination (col. 8, lines 20-25 and 54-56). Kadlic does not explicitly disclose that revealing the positive or negative card after the player made a

replacement. However, since Kadlic discloses displaying the impact card during the deal of the replacement cards (col. 3, lines 50-52; and col. 8, lines 59-62), Kadlic obviously encompasses teaching revealing the impact card after the replacement step in order to enhance excitement to the game.

b. As per claim 2-4, Kadlic discloses dealing some cards face-up (col. 7, lines 11-22). Further, dealing all cards face-up would have been both well-known and obvious design choice.

c. As per claim 5 and 12, Kadlic discloses allowing replacement a card with other card from the deck of cards (col. 8, lines 10-19).

d. As per claim 8-9, Kadlic discloses displaying the impact card (col. 3, lines 50-52). Further, regarding to claim 9, randomly determining the status of the impact card would have been well known.

e. As per claim 10-11, allowing the player to replace the negative cards would have been both well known and obvious design choice as preferred by the designer. Further, with respect to claim 11, since Kadlic discloses displaying the negative card in a separate location (col. 8, lines 59-62), Kadlic obviously discloses preventing the player to replace the negative cards.

f. As per claim 13-14, 16-17 and 19, displaying the replacement cards face-up, returning the replaced cards to the deck of cards, operating a game via Internet network, and storing a method game in a memory would have been

well known to a person of ordinary skill in the art at the time the invention was made.

g. As per claim 15, Kadlic discloses the winning combination of cards such as two pairs, three of a kind, etc. (col. 8, lines 35-50).

h. As per claim 18, Kadlic discloses displaying cards virtually (col. 6. lines 66-67).

i. As per claim 20, 23-47, refer to discussion in claims 1-4, 8-11 and 13-19 above.

Response to Arguments

3. Applicant's arguments with respect to claims 1-5, 8-20 and 23-47 have been considered but are moot in view of the new ground(s) of rejection.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on

the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9306, (for formal communications; please mark
"EXPEDITED PROCEDURE")

Hand-delivered responses should be brought to Crystal Plaza II,
Arlington, VA Second Floor (Receptionist).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is (571) 272-4441. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on (571) 272-7147. The central official fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

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Date: April 14, 2005

A handwritten signature in black ink, appearing to read 'Kim Nguyen', with a stylized flourish at the end.

Kim Nguyen
Primary Examiner
Art Unit 3713